

Greenhouse Gas Proceeding

Summary of Comments Addressing the Questions in the Commission Order

Commenter	2. Threshold of Significance?*	2d. Other Agency Thresholds	3. What is the Proper CEQA Baseline?	4. Is it Feasible to Mitigate Impacts?	4b and 6. Basis of an Override of GHG Impacts?	5. Case by Case or Program Approach?
Independent Energy Producers	Avoid developing a numeric threshold that is applied on a project-specific basis. The CEC should consider existing GHG regulations whether a project would create a significant impact. AB32 established statewide goals and essentially created a statewide significance threshold. The CEC should look to compliance with AB32 for meeting a significance threshold. Projects that will create no significant cumulative GHG emissions impact should fall within a de-minimis threshold. If no de-minimis threshold is applied, the benefit of these projects may be foregone.	CARB, SCAQMD	Potential impacts should be measured against existing environmental conditions. The CEC should use a multi-year average to determine current levels of GHG emissions and the baseline. There should be categorical exemptions for projects that promote the state's policy goals such as renewables, repowering for reliability, and integration of renewable to meet RPS.	<p>Projects proposed by IEP members use the best, most efficient technologies and meet performance standards. These plants include all feasible GHG mitigation measures available. Additional mitigation would be feasible only if advances are realized in carbon capture and storage technologies. In the absence of these technologies, the CEC should allow compliance with existing GHG laws as mitigation under CEQA.</p> <p>Another hurdle in achieving greater mitigation is the lack of protocols governing use of GHG offsets. The principles of an offset program are— ton for ton; permanent and verifiable; tradable in other programs such as AB32 and Western Climate Initiative. The lack of offset protocols poses a barrier to investment.</p>	Compliance with AB32 and SB1368 should support a finding of no-significant impact. If a CEQA override is necessary, new projects that meet state objectives such as grid reliability, integration of renewables could be considered for an override. New capacity additions that replace and/or repower older plants are in the State's interest.	IEP strongly supports a programmatic approach that evaluates system-wide emissions because global warming is a global problem not a local one. A project-by-project approach would be counterproductive because such an approach would consider the emission impacts of a project while ignoring emissions reductions that might occur in the electric system as a whole. CEC should consider both the positive and negative GHG emission impacts of the entire system. Certain repowered and new gas-fired generation are recognized as essential to integrating renewables to meet the RPS.
SMUD	Avoid developing a quantitative threshold but base it on laws, ordinances, regulation, and standards. Rely on ARB requirements for construction equipment, and SB 1368 levels adopted by the CEC.	Office of Planning and Research Technical Advisory.	For the baseline, use existing environmental conditions statewide or regionally as established by CARB including GHG impacts such as declines in water availability, abnormal temperatures, crop impacts, infectious diseases, etc. If the net impact of a power plant is a reduction in overall GHG emissions, then the impact of a specific project is not significant. Certain generation technologies should be considered categorically less than significant.	Mitigation may be tailored to specific project's impacts including mandatory state and local GHG reduction efforts. SMUD has programs to reduce GHG emissions throughout the district. Mitigation does not need to meet the same standards established for criteria pollutants. Mitigation does not need to be pound for pound.	Projects that provide system reliability as established by the Balancing Authority. Furtherance of public policy objectives. A quantitative limit on needed capacity should not be established.	AB32 is a programmatic approach and if a project is consistent with the adopted program approach, it should be considered less than cumulatively considerable.
Energy Producers and	Rely on ARB's GHG studies and plans to develop a qualitative	ARB Scoping Plan	Zero baseline should be rejected. Rely on ARB's Scoping Plan to provide parameters for the baseline and	Participating in ARB's cap and trade program should be adequate	It is unlikely that the CEC will ever be	Rely on ARB regulations. Consider a programmatic

Users Coalition	threshold of significance. CEC may consider different performance thresholds based on resource type such as SB1368 levels.		consideration of environmental effects.	mitigation. Additional mitigation would be duplicative regulation.	required to address a project with significant unmitigated GHG impacts. However, an override could be based on a market-driven “need”.	approach. Complete a Programmatic EIR for power plant siting by examining the GHG emissions and impacts of future resource additions to the existing system.
Earthjustice, Center for Biological Diversity, Community Environmental Council, and Communities for a Better Environment	CEQA requires a threshold to be based on science and factual data. CEC must articulate the environmental objective and then ensure that the threshold meets the objective. ARB objective is to stabilize GHG concentrations. Emission reduction set by SB32 and EO S-3-5 are bare minimum reductions to stabilize the climate. Scientific data supports a threshold of zero. CAPCOA: There are only two thresholds consistent with SB32 and the EO—zero or a capture of 90% of future projects. If adopting a non-zero threshold, CEC will have to justify why the collective emissions that were not captured will not interfere with efforts to avoid dangerous climate change. Threshold should be applied uniformly to all CEC projects.	ARB, SCAQMD, and San Diego County. San Joaquin Valley Air Pollution Control District’s threshold of 42,000 tons CO2e for a dairy has been challenged in court.	All GHG emissions from a new power plant must be considered new emissions unless the power plant would be replacing an existing plant that is demolished. The baseline should be zero even for solar power plants assisted by natural gas. A new power plant that emits less GHG than other power plants or less than the system cannot be considered to have a beneficial impact on CO2. A trial court has rejected this “more efficient than” concept when applied to California homes being more efficient than elsewhere unless the house it would be replacing is demolished. Just because a project is more efficient than others does not mean that it does not have impacts. It would be useful for the CEC to chart California’s pathway to a low-carbon future. The IEPR could serve as a starting point and would be a programmatic approach for analyzing the variety of factors and identifying barriers to achieving this goal.	A clear understanding of the purpose of an energy project is critical for the consideration of alternatives and mitigation. Mitigation and low- or zero-carbon alternatives should be considered.	CEC should consider override only when there is no feasible way to lessen or avoid the impact, and benefits outweigh the policy of reducing or avoiding significant impacts. This must be supported by substantial evidence. Impacts must be accurately disclosed and the benefits characterize correctly. Before any override, a thorough review of alternatives should be completed.	Until an effective programmatic approach that addresses global warming impacts from the energy sector is adopted, mitigation must be done on a case-by-case basis. CEQA analysis and mitigation that defers to prospective regulation and future programmatic approaches is contrary to CEQA and insufficient to meet the immediate challenge of the climate crisis.
Environmental Health Coalition	Any new sources of GHG emissions should be considered significant. Threshold should be set very low or at zero. ARB threshold for the CEQA Guidelines is very low, 7,000 MTCO2e/year. This captures 90% of all stationary boilers. Construction and demolition emissions should be included in the GHG analysis per CEQA “whole-of-the-action”	No answer	Baseline under CEQA is the physical environment. Impacts must be compared to real conditions on the ground and not compared against speculative future scenarios. All GHG emissions above existing conditions must be considered significant. Under AB 32 the state must implement actions to decrease GHG emissions. Life cycle and lifetime GHG emissions must be evaluated. No matter the characteristics of a project, CEC must quantify the GHG emissions, measure them against a defensible baseline, and quantitative baseline, determine their significance and propose mitigation and evaluate alternatives in place of the project. The CEC should not	Mitigation must be quantifiable, certain, enduring, enforceable, and non-duplicative, and result in a net decrease in CO2 emissions. A mitigation program could require a MW of solar rooftops be installed for every MW of gas-fired generation. CEC could require the funding and implementation of energy efficiency programs.	Given the seriousness of climate change, the threshold for an override of impacts after all feasible mitigation has been implemented should be very high. As a general rule, the CEC should adopt the policy that if a project’s GHG impacts are not mitigated, the project	Case-by-case and programmatic approaches are not mutually exclusive. Under CEQA, CEC has the legal responsibility to mitigate GHG emissions case-by-case. CEC could develop a program for reducing GHG emissions in the electric sector. CEC should ensure that aging plants are phased out. We proposed to ARB a per

	requirement. The type of fuel (natural gas, LNG, nuclear, etc.) must be assessed and the life-cycle GHG emissions of the fuel type evaluated.		create types of projects that are categorically insignificant. All plants GHG emissions must be evaluated on all pertinent facts. Projects needed for reliability should be evaluated like all others.		should be rejected.	megawatt hour performance standard for CO2 emissions from pre-1980 plants. CEC should partner with ARB to implement this approach.
Latham and Watkins	Assuming that a significant cumulative impact exists, CEQA does not mandate that every contribution be deemed cumulatively considerable. Every emission of GHG from a new plant does not necessarily constitute a cumulatively considerable contribution to a significant impact.	No answer	Suggest a four-tiered approach to satisfy CEQA. Tier 1—projects that would have little or no GHG emissions such as RPS projects. Tier 2—projects that fall under future comprehensive regulatory programs such as AB32. Tier 3—projects with BMPs and meet SB 1368 emissions standards. Tier 4—projects that adopt mitigation measures to meet the SB 1368 standard.	No answer	No answer	See answers to questions 2 and 3.
Downey, Brand, LLP.	Power plants should be considered as part of a system not as an individual source of GHG emissions. Construction emissions are short term and if CEC's BMPs are used, construction emissions should not be considered significant. Peaking plants are needed for integration of renewables, therefore their impacts should be considered to support an overall reduction in GHG emissions. Programmatic approach would use SB1368 as a standard.	No answer	A Zero baseline is not justifiable as power plants work as part of a system not individually. If CEC sets any kind of baseline, it must look at the system as a whole and recognize growth. This is complex and incredibly difficult with many assumptions.	There should be mitigation options in all instances with no exceptions. Premature to address mitigation.	No answer	ARB is developing a comprehensive approach to reduce GHG that will provide GHG reductions from the electric power sector. This approach should be recognized as the place where emission reductions from power plants will be realized. Creating a second system by the CEC is excessively burdensome to the industry.
Mirant California, LLC	Rely on SB 1368 standards. Do not look at metrics such as total mass emissions but rather units of GHG emissions per unit of energy input.	ARB, SCAQMD, and SJVAPCD are developing thresholds for projects in their respective districts.	Oppose the use of zero base line but rather the SB 1368 standard. New power plants make the system more efficient and help reduce the overall level of GHG emissions from all plants even though the new plant is an emitter. Analyzing the system as a whole to determine if a particular plant will reduce that GHG level will lead to uncertainty and litigation. It would be appropriate to classify certain power plant emissions as categorically insignificant but we prefer using SB 1368 standard for all plants.	CQA is not the tool for achieving significant GHG emission reductions from the electricity sector. CEC should rely on programmatic approaches and measures recommended by the CEC and CPUC for the reduction of GHG emissions including regional multi-sector cap and trade program under AB32. AB32 should be the sole state regulatory program for GHG. The CEC should not adopt a pound for	An override would not be necessary under Mirant's approach. Regulatory certainty and avoiding litigation should be paramount. For this reason we oppose an override. Relying on the determination that a plant is needed will lead to great uncertainty and the promise of litigation.	A cap and trade program that includes the electricity sector should obviate the need for any additional CEQA analysis in the context of a power plant licensing case. Mirant opposes a CEQA compliance framework that relies on a case-by-case approach. CEC should take a programmatic approach that relies on a multi-sector cap and trade

				pound approach to mitigation.		program and other compliance measures.
PG&E, SCE, SDG&E	Setting a quantitative threshold would be arbitrary without a programmatic study that accounts for all GHG reductions associated with SB1368, RPS, energy efficiency programs, and operation and investment in the transmission system. These programs will result in a net reduction in GHG emissions from the electricity sector. In the interim prior to implementation of AB32, CEC should adopt a qualitative approach that considers GHG emissions from power plants, and require feasible and practical performance standards such as BMPs and SB1368.	CARB and SCAQMD are currently developing qualitative thresholds.	<p>We do not support the “zero baseline” approach. “Zero baseline” ignores standards adopted under SB1368 and AB32 and would be contrary to the direction of the Legislature under those statutes. “Zero baseline” ignores the effects of other electricity sector programs and the system wide impact of generation procurement plans that are designed to reduce GHG while allowing construction of new facilities. This would be fundamentally unfair.</p> <p>We support a baseline that considers the entire electricity generation system comprised of in-state and out-of-state generation and a programmatic approach (see columns 2 and 7). We support the need to determine whether certain categories of projects should be considered categorically less than significant. A programmatic study would help to determine the type of projects that should be in this category.</p>	Any CEQA mitigation required by the CEC should be temporary until 2011 when AB32 is implemented. There should be no further CEQA requirements once the AB32 cap is implemented. A project should be found not to reach a significance threshold when a project meets AB32 requirements. Most new projects should be considered to incrementally add insignificant (not cumulatively considerable) emissions. Use performance standards such as BMPs and SB 1368. If power plant meets these standards no additional mitigation should be necessary.	Most new projects should be considered to add insignificant emissions. In the event that a project were found to present significant impacts, the CEC should exercise the authority to support CEQA override findings on a project-by-project basis. Do not use a “need test” that places a limit on the amount of capacity needed. Many factors go into supporting a power plant such as location, transmission constraints, reliability, integration of renewables.	SB1368 and AB32 are the programs upon which the CEC should rely. Until 2012, we support a programmatic approach that does not set quantitative threshold of significance but employs qualitative analysis. CEC should conduct an overall programmatic assessment that considers GHG reduction methods, SB 1368 reduction measures, RPS, energy efficiency programs, and the management/operation/investment in transmission system. Until this programmatic approach is completed, implement BMPs and SB1368 standard.
Clearwater Port LLC	Given the state of CEQA and case law, the difficulty for the CEC is identifying with specificity the “change in the environment which results” from GHG emissions and the” incremental impact” of the project when added to other closely related past, present, and foreseeable future projects.	Not aware of any other agency adopting thresholds of significance.	CEQA baseline is the physical environmental conditions in the vicinity of the project. It is difficult to reconcile this local context with the global nature of climate change.	No answer	No answer	No answer
California Unions for Reliable Energy	Whether CEC supports a zero threshold or a non-zero threshold, the GHG emissions from gas-fired plants under CEC jurisdiction are extremely large exceeding any threshold that might be selected by CEC.	SJVAPCD, CARB, Western Climate Initiative	CEC should follow well established CEQA processes, principles, and methods.	Although AB 32 sets out statutory requirements for GHG emission reductions, it is separate from CEQA. Just as a housing development that complies with a General Plan, its impacts on traffic, water resources, soils, schools, etc, must be evaluated and mitigated under CEQA. Or an industrial facility that complies with the State Implementation Plan (SIP), its air quality impacts must be	No answer	It is not legally adequate for CEC to rely on AB 32 regulations, which have not been adopted and will not be in effect for several years, to omit meaningful project-specific analysis and mitigation of GHG emissions. Relying on AB 32 does not sufficiently satisfy the requirements of CEQA and

				evaluated and mitigated under CEQA. So it is with power plants. AB 32 provides the vision like a General Plan or SIP, but power plants still must be evaluated and mitigated under CEQA.		project specific emissions, impacts, and mitigation.
Delta Diablo Sanitation District	No answer	No answer	No answer	Regardless of the approach, CEC should encourage use of recycled water over air-cooled power plants. Due to lower efficiencies of an air-cooled power plant, it has greater GHG emissions than a water cooled plant. Air-cooled plants should be required to mitigate their increased GHG emissions.		
Theroux Environmental	No answer	No answer	No answer	The nature of energy generation is changing. In addition to large scale power plants, smaller distributed power generation are being planned and incorporated into regional plans. Although the CEC licenses single-site facilities 50 MW and above, it should consider integrated regional resource management plans that incorporate multi-site energy development. CEC should consider a programmatic EIR for these small community-scale facilities that could total more than 50 MW.		

* Question 1 is not included; all parties agree that GHG emissions should be assessed under CEQA.